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09/742,795	12/20/2000	Brian J. Moore	2690	8447

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EXAMINER

ZHONG, CHAD

ART UNIT	PAPER NUMBER
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2154

DATE MAILED: 05/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/742,795

Applicant(s)

MOORE ET AL.

Examiner

Chad Zhong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

1. Claims 1-30 are presented for examination.
2. It is noted that although the present application does contain line numbers in specification and claims, the line numbers in the claims do not correspond to the preferred format. The preferred format is to number each line of every claim, with each claim beginning with line 1. For ease of reference by both the Examiner and Applicant all future correspondence should include the recommended line numbering.

Specification

3. Applicant is required to update the status (pending, allowed, etc.) of all parent priority applications in the first line of the specification. The status of all citations of US filed applications in the specification should also be updated where appropriate.

Claim Rejections - 35 USC § 112, second paragraph

4. Claims 3, 20-22 and 26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- a. The claim language in the following claims is murky or not clearly understood:

- i. As per claim 3, line 2, it is not clearly understood whether “a server” refers to “a server” in claim 1, line 3 (i.e. if they are the same, the word such as “said” or “the” must be used);
- ii. As per claim 20, line 2, it is not clearly understood whether “an update” refers to “an update” in claim 17, line 11 (i.e. if they are the same, the word such as “said” or “the” must be used);

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iii. As per claim 26, line 2, is it not clearly understood whether "an update" refers to "an update" in claim 17, line 11 (i.e. if they are the same, the word such as "said" or "the" must be used);

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-4, 11-20, 22-30 are rejected under 35 U.S.C. 102(b) as being anticipated by "Bug Net – Cybermedia Oil Change Version 2.5" (hereinafter BugNet), 1998.

7. As per claim 1, BugNet teaches a computer-implemented method, comprising:

at a client computer, obtaining information about available updates from a server (pg 1, lines 1-3);

storing the information about available updates at a local cache on the client computer (pg 6, lines 10-15; pg 7, lines 5-6); and

in response to a request for update information that may be available at the server, accessing the local cache to retrieve the information about available updates (pg 2, lines 1-10, lines 13-16).

8. As per claim 2, BugNet teaches the computer-implemented method of claim 1 wherein downloading information includes accessing at least one Internet website (pg 1, line 3).

9. As per claim 3, BugNet teaches the computer-implemented method of claim 1 wherein obtaining information about available updates from a server includes obtaining data that changes the information about available updates in the local cache (pg 2, lines 5-7, lines 13-16; pg 7, lines 5-6).

10. As per claim 4, BugNet teaches the computer-implemented method of claim 1 wherein storing the

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information about available updates includes storing data identifying whether a hardware device has a driver therefor available for download from an online site (pg 1, lines 5-6).

11. As per claim 11, BugNet teaches the computer-implemented method of claim 1 wherein storing the information about available updates includes storing data identifying whether at least one software component is available for download from an online site (pg 2, lines 13-16; pg 7, lines 5-6).

12. As per claim 12, BugNet teaches the computer-implemented method of claim 11 wherein at least one software Component is available, and further comprising storing data identifying whether installation of at least one available software component is dependent on installation of at least one other software component (pg 1, lines 5-6).

13. As per claim 13, BugNet teaches the computer-implemented method of claim 11 wherein at least one software component is available, and further comprising storing data identifying a version for at least one available software component (pg 2, lines 1-10; pg 4, lines 1-9).

14. As per claim 14, BugNet teaches the computer-implemented method of claim 1 wherein accessing the local cache to retrieve the information about available updates indicates that an update is available, and further comprising, persisting information about the available update (pg 2, lines 1-10; pg 7, lines 5-6).

15. As per claim 15, BugNet teaches the computer-implemented method of claim 14 further comprising, downloading updates at a time when a connection exists based on the information persisted about the available update (pg 5, lines 15-20; pg 4, lines 15-20).

16. As per claim 16, BugNet teaches the computer-implemented method of claim I wherein accessing the local cache to retrieve the information about available updates indicates that an update is available,

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and further comprising, downloading the available update (pg 2, lines 1-10).

17. As per claim 17, BugNet teaches in a computing device, a system comprising:

network access software configured to access a network (pg 1, lines 1-3);

a cache;

a cache maintenance mechanism connected to the network access software and configured to maintain information in the cache corresponding to available updates maintained on the network (pg 2, lines 1-10; pg 7, lines 5-6); and

automatic update software connected to access the cache in response to a request for update information on the network (pg 2, lines 1-10), and

to determine from the information in the cache whether an update is available (pg 2, lines 13-16).

18. As per claim 18, BugNet teaches the system of claim 17 wherein the cache maintenance mechanism maintains information in the cache by downloading information into the cache from a network site (pg 2, lines 1-10; pg 5, lines 10-14).

19. As per claim 19, BugNet teaches the system of claim 17 wherein the request for update information corresponds to a scheduled event (pg 2, lines 1-10).

20. As per claim 20, BugNet teaches the system of claim 17 wherein the automatic update software locates information about an update to a driver in response to a request for hardware-related updates (pg 1, lines 5-6).

21. As per claim 22, BugNet teaches the system of claim 20 wherein the information about an online update to the driver is included in a file in the cache (pg 3, lines 12-13; pg 7, lines 5-6).

22. As per claim 23, Claim 23 is rejected for the same reasons as rejection to claim 13 above.

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23. As per claim 24, Claim 24 is rejected for the same reasons as rejection to claim 11 above.

24. As per claim 25, claim 25 is rejected for the same reasons as rejection to claim 14 above.

25. As per claim 26, claim 26 is rejected for the same reasons as rejection to claim 11 above.

26. As per claim 27, BugNet teaches a computer-readable medium having computer executable instructions, comprising:

accessing an online source to obtain information related to available updates (pg 1, lines 1-3);

caching the information (pg 7, lines 5-6);

receiving a request directed to whether a particular update is available for download from the online source (pg 2, lines 1-10); and

accessing the cache to determine whether the particular update is available for download from the online source (pg 2, lines 1-10; pg 7, lines 5-6; pg 3, lines 12-13).

27. As per claim 28, BugNet teaches the computer-readable medium of claim 27 wherein the online source is accessed via an Internet site (pg 1, line 3).

28. As per claim 29, BugNet teaches the computer-readable medium of claim 27 wherein the cache indicates that the particular update is available, and further comprising, downloading the update (pg 2, lines 1-10).

29. As per claim 30, BugNet teaches the computer-readable medium of claim 27 wherein the cache indicates that the particular update is available, and further comprising, persisting information corresponding to the update for later download of the update (pg 2, lines 1-10).

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Claim Rejections - 35 USC § 103

30. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

31. Claims 5-6, 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over by “Bug Net – Cybermedia Oil Change Version 2.5” (hereinafter BugNet), 1998, in view of Yasui et al. (hereinafter Yasui), JP 09-288572.

32. As per claim 5, BugNet does not explicitly teach the computer-implemented method of claim 4 wherein at least some of the data identifying whether the driver is available for download is maintained in a bitmask.

33. Yasui teaches the computer-implemented method of claim 4 wherein at least some of the data identifying whether the driver is available for download is maintained in a bitmask (Specification, [0006]-[0008]).

34. It would have been obvious to one of ordinary skill in this art at the time of invention was made to combine the teaching of BugNet and Yasui because they both dealing with updating program remotely in the system. Furthermore, the teaching of Yasui to allow wherein at least some of the data identifying whether the driver is available for download is maintained in a bitmask would improve the latency and efficiency for BugNet’s system by using simple algorithm for looking for a bit or flag indication of a newly available update for the system software/hardware.

35. As per claim 6, claim 6 is rejected for the same reasons as rejection to claim 5 above.

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36. As per claim 8, BugNet does not teach the computer-implemented method of claim 6 wherein a setting of the bit indicates whether a file containing update information can be locally accessed.

37. Yasui teaches the computer-implemented method of claim 6 wherein a setting of the bit indicates whether a file containing update information can be locally accessed (Specifications, [0006], [0017]).

38. It would have been obvious to one of ordinary skill in this art at the time of invention was made to combine the teaching of BugNet and Yasui because they both dealing with updating program remotely in the system. Furthermore, the teaching of Yasui to allow wherein a setting of the bit indicates whether a file containing update information can be locally accessed would improve the latency and efficiency for BugNet's system by using simple algorithm for looking for a bit or flag indication of a newly available update for the system software/hardware.

39. As per claim 9, BugNet teaches accessing the file, and searching for data therein corresponding to the hardware device (pg 2, lines 1-10; pg 3, lines 12-13).

40. BugNet does not teach the computer-implemented method of claim 8 wherein the bit setting indicates that the file can be locally accessed.

41. Yasui teaches the computer-implemented method of claim 8 wherein the bit setting indicates that the file can be locally accessed (Specifications [0006]-[0008], [0017]).

42. It would have been obvious to one of ordinary skill in this art at the time of invention was made to combine the teaching of BugNet and Yasui because they both dealing with updating software programs remotely in the system. Furthermore, the teaching of Yasui to allow wherein the bit setting indicates that the file can be locally accessed would improve the latency and efficiency for BugNet's system by using simple algorithm for looking for a bit or flag indication of a

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newly available update for the system software/hardware.

43. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over by “Bug Net – Cybermedia Oil Change Version 2.5” (hereinafter BugNet), 1998, in view of Yasui et al. (hereinafter Yasui), JP 09-288572, in view of Angelo, US 5,944,821.

44. As per claim 7, BugNet and Yasui does not teach the computer-implemented method of claim 6 wherein the bit is determined by hashing an identifier corresponding to the hardware device.

45. Angelo teaches the computer-implemented method of claim 6 wherein the bit is determined by hashing an identifier corresponding to the hardware device (Col. 4, lines 31-40, lines 63-67).

46. It would have been obvious to one of ordinary skill in this art at the time of invention was made to combine the teaching of BugNet, Yasui and Angelo because they all dealing with updating software programs remotely in the system. Furthermore, the teaching of Angelo to allow wherein the bit is determined by hashing an identifier corresponding to the hardware device would improve the security BugNet and Yasui’s system by using encryption algorithm to hide the hardware profiles from potential security threats.

47. Claims 10 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over by “Bug Net – Cybermedia Oil Change Version 2.5” (hereinafter BugNet), 1998, in view of Yasui et al. (hereinafter Yasui), JP 09-288572, in view of ‘Official Notice’.

48. As per claim 10, BugNet and Yasui does not explicitly teach the computer-implemented method of claim 8 wherein the data corresponding to the hardware device is present and indicates a version number of an available driver for that hardware device. However ‘Official Notice’ is taken by the Examiner that a version number is notoriously well known. It would have been obvious to have used a

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version number for the current invention, because doing so would be less burdening for the system when it tries to recover from a newer version to an older version or vice-versa. Furthermore, it would have been obvious to one of ordinary skill in this art at the time of invention was made to have used software version identification control, doing so would be advantageous and contribute to the flexibility of the system allowing it to return to a prior version if needed to.

49. As per claim 21, Claim 21 is rejected for the same reasons as rejection to claim 5 above.

Conclusion

41. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents and publications are cited to further show the state of the art with respect to “”.

- i. US 5881292 Sigal et al.
- ii. US 6581159 Nevis et al.
- iii. US 6618735 Krishnaswami et al.
- iv. US 6212632 Surine et al.
- v. “Meeting report Cybermedia”, Bin Ly, Dec 11, 1997
- vi. “Locate and install software and driver updates. A comparison of Cybermedia’s Oil Change and Synmantec’s Norton Web Services.”, Sandra Underhill, November 30, 1999.
- vii. “Oil Change” Forrest Stroud, June 25, 1998
- viii. US 5442771 Filepp et al.
- ix. US 5896523 Bissett et al.
- x. US 5793970 Fakes et al.
- xi. US 6085333 DeKoning et al.
- xii. US 6125388 Reisman.
- xiii. US 6148349 Chow et al.

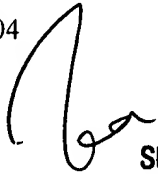
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chad Zhong whose telephone number is (703) 305-0718. The examiner can normally be reached on M-F 7am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John A Follansbee can be reached on 703-305-8498. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

CZ
April 16, 2004



**JOHN FOLLANSBEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100**